

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-009

FINAL DECISION

ANDREWS, Attorney-Advisor:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was commenced on October 26, 1998, upon the BCMR's receipt of the applicant's application for correction.

This final decision, dated July 22, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a xxxxxxxxxxxxxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record to show that he was discharged on his six-year active duty anniversary date, December 10, 1997, and immediately reenlisted for a term of six years. The correction would entitle him to receive a Selective Reenlistment Bonus (SRB) pursuant to ALDIST 226/97.

APPLICANT'S ALLEGATIONS

The applicant alleged that pursuant to Coast Guard regulations, he should have been counseled prior to the sixth anniversary of his enlistment concerning his eligibility for an SRB. The applicant alleged that he was not properly counseled and that the absence in his record of a Form CG-3307 shows that he was not counseled as required. The applicant alleged that, if he had been properly counseled, he would have been discharged and immediately reenlisted on his sixth anniversary for a term of six years in order to receive the maximum allowable SRB for his rating under ALDIST 226/97.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on December 10, 1991, for a term of four years. He reenlisted for another term of four years on July 19, 1995. On the sixth anniversary of his original enlistment, December 10, 1997, his rating was xx. There is no Form CG-3307 in the applicant's record showing that he was counseled concerning his eligibility for an SRB.

On September 30, 1997, the Commandant of the Coast Guard issued ALDIST 226/97, which allowed members to receive an SRB if they reenlisted or extended their current enlistments between October 1, 1997, and March 31, 1998. ALDIST 226/97 provided that members in the xx rating who extended their enlistments or reenlisted for more than three years would receive an SRB calculated with a multiple of one-half.

VIEWS OF THE COAST GUARD

On July 9, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that the applicant should be granted relief because he took prompt and appropriate action to rectify the error after he discovered his eligibility under ALDIST 226/97. The Chief Counsel also argued that the correction is warranted because the applicant is willing to commit himself to a six-year reenlistment in consideration for the SRB.

APPLICABLE REGULATIONS

Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration), Section 3.d.(1), states that "[m]embers with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A multiple in effect for their rating if they are otherwise eligible."

Section 3.d.(9) of the instruction states that "[c]ommanding officers are authorized to effect early discharge and reenlist members within 3 months prior to their 6th, 10th, or 14th year active service anniversary dates (not to be confused with the normal expiration of enlistment), for the purpose of qualifying for a Zone A, B, or C SRB respectively."

Enclosure (3) to the instruction states that during the three months prior to their 6th, 10th, and 14th anniversary dates, members must be counseled concerning their eligibility for an SRB. The counseling must be memorialized in their records with a Form CG-3307 signed by the member.

ALDIST 226/97, issued on September 30, 1997, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between October 1, 1997 and March 31, 1998. The multiple to be used for calculating SRBs for members in the xx rating was one-half.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant alleged that he was not properly counseled about his eligibility for an SRB prior to the sixth anniversary of his enlistment. He alleged that, had he been properly counseled, he would have been discharged on his sixth anniversary, December 10, 1997, and immediately reenlisted for a term of six years to receive the maximum possible SRB for his rating.

3. Under Sections 3.d.(1) and 3.d.(9) of Enclosure (1) to Commandant Instruction 7220.33, the applicant was eligible to be discharged on the sixth anniversary of his enlistment, December 10, 1997, in order to reenlist and receive an SRB under ALDIST 226/97. Under Enclosure (3) to the instruction, the applicant had a right to be counseled concerning his eligibility.

4. There is no evidence that the Coast Guard counseled the applicant concerning his eligibility for an SRB prior to the sixth anniversary of his original enlistment. Had he been so counseled, a Form CG-3307 should appear in his record, but there is none. The evidence further indicates that, if the applicant had been properly counseled, he would have been discharged and reenlisted for a term of six years to receive an SRB.

5. Therefore, the applicant's request should be granted.

ORDER

The application for correction of the military record of XXXXXXXX, USCG, is hereby granted. His record shall be corrected to show that he was discharged and reenlisted on December 10, 1997, for a term of six years for the purpose of receiving a Zone A SRB under ALDIST 226/97. The Coast Guard shall pay the applicant the amount due him as a result of this correction.

David H. Kasminoff

George Kuehnle, Jr.

Michael J. McMorrow